



Thursday, August 25, 2016

The Probate Examiner's Office recommends approval of the following Probate matters:

22 16CEPR00622 Helen Medina (Det. Succession)

The following cases have been continued at the request of the Petitioner or the Petitioner's attorney:

2 08CEPR01167 Doris Idhe (CONS/PE) – Continued to 10/11/16

The following cases are off calendar:

8 12CEPR00674 Steven R. Thomas Family Trust 5-13-03
11 14CEPR00298 Davis 1989 Family Trust
12 14CEPR00790 Davis Family 1989 Life Insurance Trust
17 15CEPR00427 Joshua Areyano (GUARD/E)
27 16CEPR00827 Jesse Estrada, Alicia Estrada Horn, Alexis Estrada
Horn, Cerryia Estrada Puga (GUARD/P)

Appearance of counsel is recommended for all remaining matters set for hearing.

Thank you.

Dept. 303, 9:00 a.m. Thursday, August 25, 2016

Atty Amador, Catherine A. (for Petitioner Sylvia JP Gonzalez)

Probate Status Hearing Re: Filing of the Fourteenth Account

		SYLVIA J.P. GONZALES , sister, and RACHEL REUTHER , daughter, were appointed Successor Co-Conservators of the Person and Estate on 11/13/2014. Minute Order dated 3/19/2015 from the hearing on the Thirteenth Account set this status hearing on 8/25/2016 for the filing of the Fourteenth Account.	NEEDS/PROBLEMS/COMMENTS: 1. Need Fourteenth Account of the conservatorship estate, or a verified status report and proof of service of notice of the status hearing with a copy of the status report to all interested parties pursuant to Local Rule 7.5(B).
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Video Receipt			
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9202			
Order			
Aff. Posting			
Status Rpt	X		
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: LEG	
		Reviewed on: 8/19/16	
		Updates:	
		Recommendation:	
		File 1- Larssen	

Attorney Nancy J. LeVan (for Petitioners Rhonda Kennison and Claudia Kennison)

Second Account Current and Report of Conservator; Petition for Allowance of Fees to Attorney for Conservator

		NEEDS/PROBLEMS/COMMENTS: CONTINUED TO 10/11/2016 Per Attorney Request
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Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: LEG Reviewed on: 8/19/16 Updates: Recommendation: File 2- Ihde

Petition for Appointment of Guardian of the Person

		<u>TEMPORARY EXPIRED 8/3/2016</u>	NEEDS/PROBLEMS/COMMENTS:	
		ROBERT SALAZAR , maternal great uncle, is petitioner.	<ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i>. 2. Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the petition <u>or</u> consent and waiver of notice for: <ol style="list-style-type: none"> a. Leonardo Lopez Herrera (father) – <i>unless the Court excuses notice</i> 3. Need proof of service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the petition <u>or</u> consents and waivers of notice <u>or</u> declarations of due diligence for: <ol style="list-style-type: none"> a. Leonardo Lopez Sr. (paternal grandfather) b. Anabertha Lopez (paternal grandmother) c. Sandra Sosa (maternal grandmother) d. Emily Salazar (sibling, <i>if 12 or over</i>) e. Maria Hernandez (sibling, <i>if 12 or over</i>) f. Sophia Salazar Hernandez (sibling, <i>if 12 or over</i>) 	
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
		See petition for details.		
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	Notice of Hrg			x
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	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			x
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
✓	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
			Reviewed by: SEF	
			Reviewed on: 8/19/2016	
			Updates:	
			Recommendation:	
			File 3- Salazar	

First and Final Account of Administratrix and Petition for Final Distribution

DOD: 5/18/07		ALICE HOUSTON , Daughter and Administrator with Full IAEA with bond of \$67,000.00, is Petitioner. Petitioner waives accounting. I&A: \$335,000.00 POH: \$335,000.00 (real property located at 3045 S. Clara in Fresno) Petitioner states the decedent died intestate, leaving no spouse or registered domestic partner. The decedent had three children (none deceased). Petitioner requests distribution of the entire estate (real property) to herself only.	NEEDS/PROBLEMS/COMMENTS: <u>Minute Order 6/30/16:</u> Amended petition needs to be filed and the filing fees need to be paid. <u>Update:</u> On 7/18/16, Petitioner filed "Consent and Waiver of Notice" by both of her brothers stating they consent to distribution of the real property to Alice Houston and waive accounting. However, they did not specifically state that they were assigning their interest to Petitioner. Therefore, the following issues remain noted: 1. Although Petitioner's brothers Willie Tims and Milton Tims consented to the proposed distribution, they did not specifically state that they " <u>assign</u> " their interest to Petitioner. The Court may require a more specific assignment document pursuant to Probate Code §11604. 2. This petition was filed with a fee waiver. The filing fee of \$435.00 will be due prior to order for distribution of assets, as the estate is not insolvent. 3. Need Order. Local Rule 7.1.1.F.
Cont. from 063016			
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Reviewed by: skc
Reviewed on: 8/19/16
Updates:
Recommendation:
File 4- Tims

5 Natalie La France, Hailey La France, Brendan La France (GUARD/P)
Case No. 11CEPR00549

Attorney Hicks, Julie A. (for Lisa Will – Petitioner – Mother)
 Attorney McCracken, Terri (for Kim Rhine & Kristi Ergo – Guardians)

Petition for Visitation

Natalie Age: 8		LISA WILL , mother, is petitioner. KIM RHINE , paternal grandmother, and KRISTI ERGO , paternal great aunt, were appointed guardians on 08/25/2011. <u>Please see petition for details</u>	NEEDS/PROBLEMS/COMMENTS: Continued from 07/21/2016.	
Hailey Age: 7				
Brendan Age: 6				
Cont. from 072116				
<input type="checkbox"/>	Aff.Sub.Wit.			
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<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
			Reviewed by: LV	
			Reviewed on: 08/17/2016	
			Updates:	
			Recommendation:	
			File 5- La France	

Attorney Heather H. Kruthers (for Public Guardian, Trustee)

Fourth and Final Account and Report of Trustee; Petition for Allowance of Compensation to Trustee and Her Attorney; Termination of Trust; and Distribution

DOD: 7/27/2015		PUBLIC GUARDIAN , Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 7/28/2016.</u> Note: Court records show a filing fee of \$200.00 rather than \$435.00 was paid on 6/16/2016 for the filing of the instant Fourth Account. Proposed order has been interlineated to reflect the correct sum for approved fees and costs as \$1,157.68 , and that distribution of the remaining sum of \$10,088.38 shall be made to the department of Health Services.
		Account period: 10/6/2015 – 5/27/2016	
		Accounting - \$33,332.84	
		Beginning POH - \$33,332.60	
		Ending POH - \$11,246.06 (all cash)	
Cont. from 072816			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	W/	
	Aff.Pub.		
	Sp.Ntc.		
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	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
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	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
		Trustee - \$332.68 (1.75 staff hours at \$76/hr and 2.08 Deputy hours @ \$96/hr)	
		Attorney - \$625.00 (less than per Local Rule)	
		Costs - [\$200.00] (filing fee)	
		Petitioner states: The only asset in the Trust is cash of \$11,246.06 ; the Department of Health Care Services (MediCal) submitted a claim for reimbursement of \$1,341,602.44 ; after payment of court-ordered fees, commissions and partial payment of the MediCal claim, there will be no assets remaining to distribute to the Beneficiary's heir.	
		Petitioner prays for an Order:	
		1. Terminating the Trust due to the Beneficiary's death;	
		2. Approving, allowing and settling the Fourth and Final Account;	
		3. Authorizing the Trustee and attorney fees and compensation; and	
		4. Authorizing distribution of [\$10,088.38] to the Department of Health Services.	
			Reviewed by: LEG
			Reviewed on: 8/19/16
			Updates:
			Recommendation:
			File 6- Soto

7A Ben H. Smith & Dorothy Jean Smith (CONS/PE) Case No. 11CEPR00782

Attorney Kruthers, Heather H. (for Public Guardian – Conservator)

Attorney Krbechek, Randolph (for Michael “Butch” Smith, Jr. – Grandson – Objector)

First and Final Account and Report of Conservator; Petition for Allowance of Compensation to Conservator and her Attorney; and Distribution (Ben Smith)

Ben H. Smith DOD: 6/28/14		The FRESNO COUNTY PUBLIC GUARDIAN, Conservator, is Petitioner.	NEEDS/PROBLEMS/ COMMENTS:
		Account period: 1/18/13 – 6/28/14 Accounting: \$755,837.19 Beginning POH: \$647,238.74 Ending POH: \$580,123.89	Note: This accounting pertains to the Conservatorship of Ben Smith only.
Cont. from 051916, 062316			
	Aff.Sub.Wit.	Account period: 6/29/14 – 2/4/16 Accounting: \$635,234.06 Beginning POH: \$580,123.89 Ending POH: \$584,849.02 (\$51,230.14 cash, investment account, real property and business interests)	Minute Order 6/23/16: Counsel requests continuance to have time to file probate for Mr. and Mrs. Smith.
✓	Verified		
✓	Inventory	Conservator: \$13,917.68 (for 117.79 Deputy hours @ \$96/hr and 34.34 Staff hours @ \$76/hr, itemized at Exhibit C)	Note: See Pages 24 and 25 of this calendar.
	PTC		
	Not.Cred.	Attorney: \$3,990.00 (for 26.60 attorney hours @ \$150/hr, itemized at Exhibit D)	SEE ADDITIONAL PAGES
✓	Notice of Hrg		
✓	Aff.Mail	Bond fee: \$697.50	
	Aff.Pub.		
	Sp.Ntc.	Costs: \$643.00 (\$208 for certification of letters and \$435 for filing this account)	
	Pers.Serv.		
	Conf. Screen	Petitioner states the deceased Conservatee reportedly has a trust and his assets will pass to that trust. Again, reportedly, Michael (Butch) Smith, Jr., his grandson, is the trustee of that trust. Butch Smith has not provided a copy of that trust to the Public Guardian for verification or attachment to this petition.	
✓	Letters 2/13/13		
	Duties/Supp	Petitioner states pursuant to court orders, the total fees incurred by attorneys Jeffrey Jaech and Catherine Amador are \$40,767.00 and \$18,932.00, respectively. They have each been paid \$10,000.00. Neither the Public Guardian nor County Counsel has received any payments for their services.	
✓	Objections		
	Video Receipt	SEE ADDITIONAL PAGES	
	CI Report		
	2620(c)	Reviewed by: skc	Reviewed on: 8/19/16
✓	Order		
	Aff. Posting	Updates:	
	Status Rpt	Recommendation:	
	UCCJEA	File 7A - Ben Smith	
	Citation		
	FTB Notice		

7A

Dept. 303, 9:00 a.m. Thursday, August 25, 2016

Page 2

Petitioner requests authority to retain the cash on hand as payment of Public Guardian and County Counsel fees and costs, and partial payment to Mr. Jaech and Ms. Amador the remaining \$31,981.96 in percentages/amounts to be determined by the Court. Petitioner requests that the outstanding fees be a lien against the deceased conservatee's real properties.

Petitioner further requests distribution of the real and personal property to the trustee.

Petitioner states the Public Guardian has so far been unable to finish the final income tax returns because Michael (Butch) Smith, Jr. has refused to give permission to Chase Investments to release the detailed 1099s for the last two years. If the taxes are not completed before distribution of the estates, then the taxes must be the responsibility of the trustees.

Petitioner states the Conservatee has not received benefits from or through the Veterans Administration and the Conservatee has not been confined in a state hospital in California during the pendency of these proceedings. No one has filed a request for special notice.

Petitioner prays that:

1. The Court find that the conservatorship of the person and estate terminated on 6/28/14, the conservatee's date of death;
2. The Court find that notice of hearing of this first and final account, report and petition has been given as required by law, and make an order approving, allowing and settling the attached first and final account and report of conservator;
3. The Court authorize Petitioner \$13,917.68 and her attorney \$3,990 as compensation for their services during the period of this accounting;
4. The Court authorize Petitioner to pay from the estate a bond fee of \$697.50 and a processing fee of \$208; (Note: Payment of the \$435 filing fee is also included in the cost calculation.)
5. The Court authorize distribution of the balance of property on hand as set forth in this petition;
6. The Court authorize a lien on the deceased conservatee's estate, including his real property;
7. The Court excuse the Public Guardian from filing tax returns; and
8. Any other orders that the Court considers proper.

SEE ADDITIONAL PAGES

Page 3

On 4/28/16, Mike (Butch) Smith, Jr., filed Objections to this accounting for Conservatee Benjamin H. Smith and the related accounting for Conservatee Dorothy Jean Smith (one document).

Objector states there are common issues in the accounting for the Jean Smith conservatorship estate and the Ben Smith conservatorship estate and the two matters should be set for the same date. One of the assets of the Ben Smith conservatorship estate was a note payable by Mahil Farms, which note was made in payment for a sale of real property held by Ben Smith and Jean Smith as joint tenants. Jean Smith held no interest in such joint tenancy property after her death (10/18/12).

The Ben Smith accounting reflects payments from Mahil Farms totaling \$117,960.80. The Jean Smith accounting reflects payments totaling \$77,980.40. See Objection for details. Jean Smith's joint tenancy interest in the Mahil payments ended at her death on 10/18/12. She was entitled to receive one-half of the 2012 payment in the amount of \$24,490.20. She was not entitled to receive payments after her death. The balance of the payments in the sum of \$53,470.60 (\$77,960.80 minus \$24,490.20) are property of the Ben Smith conservatorship estate.

Objector states the two conservatorship estates hold the following real property, which were community assets:

Per Jean Smith Accounting:

3140 N. Grantland, \$14,645 rent collected

3162 N. Grantland, \$8,800 rent collected

6464 W. McKinley, \$36,900 rent collected

Total: \$60,345

The Jean Smith Accounting reflects various rental income from these properties. See Objection for list. For reasons not explained, all of the income was allocated to the Jean Smith conservatorship estate, and none to the Ben Smith conservatorship estate, which is not proper, because each estate owned a one-half interest in these properties. In addition, despite the fact that no rental income was allocated to the Ben Smith conservatorship estate, rental expenses totaling \$2,246.39 were allocated to the Ben Smith conservatorship estate. Income and expenses for rental properties must be allocated consistently.

Objector states Benjamin Smith had a trust and his assets will pass to that trust. Butch Smith is the trustee of that trust. The estate planning documents were prepared by attorney Jeffrey Jaech, who was previously the attorney for Conservatee herein. Mr. Jaech not only provided the estate planning documents to Petitioner, he filed them with the court, as established in an email dated 2/9/13. In all events, the undersigned counsel (attorney Krbechek) has, in response to the petition for distribution, mailed another set of the estate planning documents to counsel for petitioner on 4/7/16.

SEE ADDITIONAL PAGES

Page 4

Objector states (Cont'd): Paradise Cleaners: The petition reflects a zero value for Paradise Cleaners, a business owned by Michael H. Smith, Sr. However, such valuation is contrary to the opinion of Steven Diebert as expressed in an email dated 5/7/13. See Objection for copy of email. Accordingly, the inventories and petitions should be modified to account for this asset.

Accounting expenses: The accounting for Ben Smith reflects \$5,634.13 in tax services. The accounting for Jean Smith reflects \$6,025 for tax services. Objector states he does not know the billing rate for the accountant and cannot determine whether charges are duplicated.

Concerning the Morgan Stanley statements, the undersigned counsel personally delivered the 2013 and 2014 statements to County Counsel in Probate Court on 10/20/14, as confirmed by email. The information was re-sent, and he will re-send the 2015 information upon receipt.

Attorney fees: An appeal has been taken from the Order After Hearing on Petition for Attorney's Fees filed on 1/15/16. *(Examiner's Note: Appellant's Notice Designating Record on Appeal was filed 5/11/16 by Mike (Butch) Smith, Jr.)*

Conclusion: Butch Smith objects to a distribution of the conservatorship estates that do not take the foregoing items into account.

The Public Guardian's Response to Objections filed 5/17/16 states:

- Objector does not include a \$20,000 payment made to Ben Smith by check from Dorothy Smith's conservatorship estate on 9/9/12.
- Objector states: "rental income and expenses should be shared." Having little direction on this case as to what to pay from whom, initially the PG paid the expenses out of Dorothy Smith's account because she had money. Later, when it appeared all properties would go to her except 1661 N. Grantland (based on settlement discussions), the PG stopped paying expenses for that property in anticipation that the beneficiary would pay them. If Objector would like to argue his point that Dorothy Smith received rents so Ben Smith should not have to pay for the expenses, then the PG can credit part of the rents to Ben Smith, and the expenses Dorothy Smith paid for the 1661 property can be credited to her. The PG advises that this would result in a much larger amount going to Dorothy Smith.
- Objector insinuates the accountant's time must be overlapping because there is so much of it. The PG can attest that the times are not double-billed. The account is very complex and the accountant had to amend some returns because the PG did not have complete information the first time the returns were filed.
- Objector states he delivered the Chase "statements" to County Counsel. What was requested were consolidated 1099s that the CPA needs to complete taxes. No such documents were received until 5/2/16.

SEE ADDITIONAL PAGES

Petitioner prays the Court deny the objections and approve the accounts. If the Court is unwilling to do so, PG pleads with the Court to set a mandatory settlement conference or require that the parties participate in mediation before any other hearings occur. This case involves jointly held assets between married persons who left two differing estate plans and a hostile family. Attorney fees already exceed the property on hand in at least one of the conservatorship estate and the full amount of fees to the PG and County Counsel has not even been considered by this Court yet.

Objector's Reply to the PG's Response filed 5/19/16 (duplicate filed 5/20/16) states:

- Objector will accept that the Ben Smith estate should pay \$658.96 to the Jean Smith estate as an equalizing payment, but will not agree to forfeit the additional sums collected on the Mahil Farms promissory note.
- Objector acknowledges the \$20,000 distribution referenced by the PG. With credit for that distribution, \$33,470.650 should be distributed from the Ben Smith Conservatorship to the Dorothy Smith Conservatorship. See Reply for details.
- Benjamin Smith had a trust and his assets will pass to that trust. Butch Smith is the trustee.
- The petitions fail to reflect the value of Paradise Cleaners, a business owned by Michael H. Smith, Sr. In the opinion of Steven Dlebert expressed in an email to Melody Long, a paralegal employed by Fresno County, dated 5/7/13, a receivable in the amount of \$168,000 should be included as an asset of the two estates, presumably one-half to each.
- Objector accepts that the accounting expenses were charged one-half to each estate as represented by the PG.

Objector states while the issues are substantially narrowed, Objector objects to a distribution from the conservatorship estates that do not take the foregoing items into account.

NEEDS/PROBLEMS/COMMENTS:

1. Notice was only given to the two sons and one grandson. Pursuant to Probate Code §1460(b)(6), notice on a petition to terminate conservatorship shall be given to all relatives listed in and given notice under the original petition (second degree relatives). Therefore, need notice to:
 - Jenna Smith Abbott (granddaughter)
 - Grace McCarter (Sister)
 - Barbara Henry (Sister)
 - Benjamin M. Smith (Grandson, who is not listed at Paragraph 10 of the petition)
 - Kendra Smith (Granddaughter)
 - Brandon Smith (Grandson)(See original petition filed 9/1/11 by Jean Smith and petition filed 9/25/12 by Mike and Jenna)
2. Notice of Hearing for the two sons (Michael Smith and Rodney Smith) and grandson (Michael "Butch" Smith, Jr.) was for 5/2/16, which hearing date was taken off calendar. This matter was then re-set for 5/19/16, but without continuity of notice. Therefore, additional notice for this continued date of 6/23/16 on this petition should have been sent to these parties.

SEE ADDITIONAL PAGES

Page 6 – NEEDS/PROBLEMS/COMMENTS (Cont'd):

3. The original petition for conservatorship of Benjamin H. Smith filed 9/1/11 and the second petition filed 9/25/12 stated the Conservatee is receiving or entitled to receive Veterans Benefits. Therefore, need notice to the Office of Veterans Administration pursuant to Probate Code §1461.5.
4. Item #2 on Attachment #1 to the I&A filed 2/26/14 lists "Genworth Account Type: Flexible Premium Deferred Annuity, Acct. No xx2754. Balance on 1/18/13" at \$2,940.38. It appears from the I&A that this account/balance is the entirety of the account. However, the I&A filed 12/18/13 in the Dorothy Smith Conservatorship Estate reflects this same balance, \$2,940.38, as her 50% share, which balance would be as of establishment of her conservatorship on 6/26/12. If that amount was Dorothy's 50% share on 6/26/12, how can that same amount be the entire balance on 1/18/13, which is after Dorothy's death?
5. The Probate Referee assigned Paradise Dry Cleaners a value of \$0. Objector states the business did have value, with reference to an email between the Probate Referee and County Counsel Staff. The email describes that the reason behind the \$0 value is that the business had more debt than it would net from sale, and in fact, the debt, \$168,083.00, was owed to the "decedent" (unclear which spouse's estate the email refers to), and that receivable is the real asset.

Therefore, need clarification regarding this valuation and debt owed. Need authority for valuation of \$0, and clarification as to why the receivable was not inventoried.
6. Need account statements per Probate Code §2620(c).
7. Petitioner requests distribution of the remaining assets of the conservatorship estate directly to a trust (Michael (Butch) Smith Jr., *reportedly* as trustee), which trust document has not been provided to the Public Guardian or to the Court. However, Examiner is not aware of any authority for distribution from a conservatorship estate directly to a trust outside of substituted judgment, which is not the case here. Further, real property cannot be distributed directly from a conservatorship. Conservatorship estate assets that were held outside of trust must be turned over to the personal representative of the Conservatee's (now Decedent's) estate. See Commentary under Probate Code §2631 (Annotated Probate Code).

7B Ben H. Smith & Dorothy Jean Smith (CONS/PE) Case No. 11CEPR00782

Attorney Kruthers, Heather H. (for Public Guardian – Conservator)

Attorney Krbechek, Randolph (for Michael “Butch” Smith, Jr. – Grandson – Objector)

Amended First and Final Account and Report of Conservator; Petition for Allowance of Compensation to Conservator and her Attorney; and Distribution (Dorothy Jean Smith)

Dorothy Smith DOD: 10/18/12		The FRESNO COUNTY PUBLIC GUARDIAN , Conservator, is Petitioner. Note: Letters of Conservatorship issued 7/13/12. The Conservatee died 10/18/12.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 6/26/12 – 10/18/12 Accounting: \$733,869.23 Beginning POH: \$655,215.93 Ending POH: \$533,827.39	Note: This accounting pertains to the Conservatorship of Dorothy Jean Smith only.
Cont. from 051916, 062316			
<input type="checkbox"/>	Aff.Sub.Wit.	Account period: 10/19/12 – 2/2/16 Accounting: \$711,326.31 Beginning POH: \$533,827.39 Ending POH: \$501,725.72 (\$3,888.22 cash, real property and business interests, personal property)	Minute Order 6/23/16: Counsel requests continuance to have time to file probate for Mr. and Mrs. Smith.
<input checked="" type="checkbox"/>	Verified		
<input checked="" type="checkbox"/>	Inventory	Conservator: \$3,289.56 (for 20.99 Deputy hours @ \$96/hr and 16.77 Staff hours @ \$76/hr, itemized at Exhibit C)	Note: See Pages 24 and 25 of this calendar.
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.	Attorney: \$1,000.00 (per Local Rule)	SEE ADDITIONAL PAGES
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	Bond fee: \$697.50	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.	Costs: \$539.00 (\$104 for certification of letters and \$435 for filing this account)	
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen	Petitioner states the deceased Conservatee has a trust and her assets will pass to that trust. Michael Smith, Sr., her son, is the trustee of that trust. Petitioner requests authority to retain the cash on hand as partial payment of fees and requests that the outstanding fees be a lien against the deceased conservatee's real properties. She further requests distribution of the real property.	
<input checked="" type="checkbox"/>	Letters 7/13/12		
<input type="checkbox"/>	Duties/Supp	Petitioner states the Public Guardian has so far been unable to finish the final income tax returns because Michael (Butch) Smith, Jr. has refused to give permission to Chase Investments to release the detailed 1099s for the last two years. If the taxes are not completed before distribution of the estates, then the taxes must be the responsibility of the trustees.	
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt	SEE ADDITIONAL PAGES	
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	2620(c)		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
<input type="checkbox"/>			

7B

Dept. 303, 9:00 a.m. Thursday, August 25, 2016

Page 2 - Petitioner prays that:

9. The Court find that the conservatorship of the person and estate terminated on 10/18/12, the conservatee's date of death;
10. The Court find that notice of hearing of this first and final account, report and petition has been given as required by law, and make an order approving, allowing and settling the attached first and final account and report of conservator;
11. The Court authorize Petitioner \$3,289.56 and her attorney \$1,000.00 as compensation for their services during the period of this accounting;
12. The Court authorize Petitioner to pay from the estate a bond fee of \$697.50 and a processing fee of \$208; (Note: Payment of the \$435 filing fee is also included in the cost calculation.)
13. The Court authorize distribution of the balance of property on hand as set forth in this petition;
14. The Court authorize a lien on the deceased conservatee's estate, including her real property;
15. The Court excuse the Public Guardian from filing tax returns; and
16. Any other orders that the Court considers proper.

Examiner's Note: See Page A re Objections filed 4/28/16 by Mike (Butch) Smith, Jr., the Public Guardian's Response, and Objector's Reply to Response.

NEEDS/PROBLEMS/COMMENTS:

8. Notice was only given to the two sons and one grandson. Pursuant to Probate Code §1460(b)(6), notice on a petition to terminate conservatorship shall be given to all relatives listed in and given notice under the original petition (second degree relatives). Therefore, need notice to:
 - Jenna Smith Abbott (granddaughter)
 - Shirley Tosta (Sister)
 - Benjamin M. Smith (Grandson)
 - Kendra Smith (Granddaughter)
 - Brandon Smith (Grandson)(See original petition filed 5/18/12 by Michael H. Smith and Jenna Smith)
9. Petitioner requests distribution of the remaining assets of the conservatorship estate directly to a trust. However, Examiner is not aware of any authority for distribution from a conservatorship estate directly to a trust outside of substituted judgment, which is not the case here. Further, real property cannot be distributed directly from a conservatorship. Conservatorship estate assets that were held outside of trust must be turned over to the personal representative of the Conservatee's (now Decedent's) estate. See Commentary under Probate Code §2631 (Annotated Probate Code).

Probate Status Hearing Re: Filing Receipt of Blocked Account

		NEEDS/PROBLEMS/COMMENTS: <u>OFF CALENDAR</u> Receipts filed 7/29/16
Cont. from 072816		
<input type="checkbox"/>	Aff.Sub.Wit.	
<input type="checkbox"/>	Verified	
<input type="checkbox"/>	Inventory	
<input type="checkbox"/>	PTC	
<input type="checkbox"/>	Not.Cred.	
<input type="checkbox"/>	Notice of Hrg	
<input type="checkbox"/>	Aff.Mail	
<input type="checkbox"/>	Aff.Pub.	
<input type="checkbox"/>	Sp.Ntc.	
<input type="checkbox"/>	Pers.Serv.	
<input type="checkbox"/>	Conf. Screen	
<input type="checkbox"/>	Letters	
<input type="checkbox"/>	Duties/Supp	
<input type="checkbox"/>	Objections	
<input type="checkbox"/>	Video Receipt	
<input type="checkbox"/>	CI Report	
<input type="checkbox"/>	9202	
<input type="checkbox"/>	Order	
<input type="checkbox"/>	Aff. Posting	
<input type="checkbox"/>	Status Rpt	
<input type="checkbox"/>	UCCJEA	
<input type="checkbox"/>	Citation	
<input type="checkbox"/>	FTB Notice	
		Reviewed by: skc
		Reviewed on: 8/19/16
		Updates:
		Recommendation:
		File 8- Thomas

Status Hearing

		CHRISTINA ROBERTS , Mother, is Trustee of the Jennifer Roberts Special Needs Trust.	NEEDS/PROBLEMS/COMMENTS:
		The Trustee's Second Account for the period 11/6/13 through 12/31/15 was settled on 6/16/16.	1. Need status.
Aff.Sub.Wit.		Examiner Notes from the hearing on 6/16/16 noted that the beneficiary was to have received a distribution from her late father's estate pursuant to an Order for Final Distribution entered 7/8/15 in 12CEPR00290, but the accounting did not reflect receipt of the distribution.	Note: On 8/22/16, Attorney Teixeira submitted a proposed Order to Deposit Money Into Blocked Account for \$686.55 to be received by the beneficiary from her father's estate; however, no status report has been filed.
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen		Declaration filed 6/15/16 by Attorney Teixeira stated that he met with the family and that it appeared the attorney for the personal representative in the estate matter was unfamiliar with probate distribution; therefore, Attorney Teixeira suggested that he prepare the necessary documents to bring the estate to a close and effect distribution, and that the personal representative present the documents to his attorney (Larry Donaldson) for review and sign-off. It appears that the final order did not include the legal description of real property, and was inadequate. Therefore, Attorney Teixeira prepared an ex parte petition to amend the final order and had a call in to the personal representative to present what was prepared and present to Attorney Donaldson.	Status report filed 8/24/16 by Attorney Teixeira states an Order to Deposit Money Into Blocked Account was submitted so that the funds received from the estate may be deposited. Attached to the status report is an Order Settling Final Account and Report of Administrator, Allowing for Statutory Commissions, and for Final Distribution, recorded 7/22/16.
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA		Note: Court records reflect that an ex parte order was entered on 6/29/16 in 12CEPR00290.	Note: The Court will set a status hearing for the filing of the Third Account as follows: • Thursday, March 1, 2018
Citation			
FTB Notice			
			Reviewed by: skc
			Reviewed on: 8/19/16
			Updates: 8/22/16, 8/24/16
			Recommendation:
			File 9- Roberts

Atty Renge, Lawson K. (for Betty Phillips and Rose Lee Little – sisters/co-executors)

Probate Status Hearing Re: Filing of the First Account and/or Petition for Final Distribution

DOD: 11/26/12		BETTY PHILLIPS and ROSE LEE LITTLE , sisters, were appointed Co-Executors with full IAEA and without bond on 06/11/13. Letters Testamentary were issued on 06/11/13.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 4/7/2016.</u> <i>Minute Order</i> states the default hearing is set for 5/3/2016 in Dept. 502. <u>Note for background:</u> Court records for Case 14CECG02269 show an entry on 7/22/2016 indicating that Attorney Renge's request for Clerk's Judgment on the default was denied and that an court judgment is required to proceed in that matter. Court records also show an Order to Show Cause hearing issued to Attorney Renge was set for <u>8/18/2016.</u> 1. Need First Account and/or Petition for Final Distribution.
Cont. from 080814, 102314, 012115, 042215, 062415, 070915, 092415, 102215, 040716			
Partial No. 1 Inventory and Appraisal filed 2/13/2014 shows a portion of the estate valued at \$615,000.00.			
Final Inventory and Appraisal filed 7/17/2014 shows personal property valued at \$63,096.95.			
Aff.Sub.Wit.		Status Report Re Final Distribution/Accounting filed by Attorney Renge on 4/1/2016 states: <ul style="list-style-type: none"> Since the last status hearing, Attorney Renge was waiting for entry of a default money judgment against KARLIE STEINHAUER and JAMIE RUST, defendants in the civil action <i>Phillips and Little vs. Steinhauer</i>, Case 14CECG02269; A judgment against Steinhauer and Rust is necessary for inclusion as an asset of this Estate; the Judgment is in excess of \$56,000.00; upon entry of the judgment against Steinhauer and Rust, it is believed that the estate will be in a condition to be closed; The Civil Division denied Plaintiff's initial request for entry of default judgment due to the need for more information; He again resubmitted the request for entry of default judgment with the Court, again denying the same; He has re-prepared the request for entry of default judgment against the defendant pursuant to correction requests issued by the Court; A default hearing is scheduled for 5/3/2016 at 3:30 p.m. in Department 502 of the Court for entry of the default judgment against the defendants. 	Reviewed by: LEG Reviewed on: 8/19/16 Updates: Recommendation: File 10 – Kiramidjian
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail	X		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
✓ Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Atty Burnside, Leigh W. (for Beneficiaries Joshua Davis, Corey Davis, Britney Davis)
 Atty Neilson, Bruce A. (Trustee)

Status Hearing

Thomas J. Davis DOD: 6-5-00	JOSHUA DAVIS, Beneficiary, filed Petition for Order Compelling Trustee to Account and Report on 4/14/14.	NEEDS/PROBLEMS/COMMENTS:
Wealthea Davis DOD: 3-25-98		
	On 3/26/15, BRUCE A. NEILSON , Trustee, filed Account and Report of Trustee and Petition for Its Settlement .	OFF CALENDAR. Order signed on 8/23/16 continuing the status hearing to 11/3/16.
	On 5/21/15, Beneficiaries JOSHUA DAVIS, COREY DAVIS, and BRITNEY DAVIS filed Objection to Account and Report of Trustee and Request for Surcharge of Trustee .	
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	On 10/7/15, the matter was set for trial with a one-day estimate on 1/19/16.	
Aff.Mail		
Aff.Pub.	Pursuant to various stipulations, an Order was entered 5/31/16 taking the trial off calendar and setting this status hearing.	
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: skc
		Reviewed on: 8/19/16
		Updates: 8/23/16 - KT
		Recommendation:
		File 11- Davis

Trustee: Bruce A. Neilson

Attorney: Leigh W. Burnside (for Joshua Davis, Corey Davis and Brittney Davis, beneficiaries)

Probate Status Hearing

	JOSHUA DAVIS , Beneficiary, filed a Petition for Order Compelling Trustee to Account and Report.	NEEDS/PROBLEMS/COMMENTS: <u>OFF CALENDAR.</u> Order signed on 8/23/16 continuing the status hearing to 11/3/16.
Cont. from	BRUCE NEILSON , Trustee of the DAVIS 1989 FAMILY TRUST , dated 11/17/89, submitted the account and report of administration.	
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	Objections to Account were by Joshua Davis, Corey Davis, and Britney Davis .	
Aff.Mail	Minute Order dated 10/7/15 set the matter for Trial.	
Aff.Pub.	On 5/27/16 pursuant to a stipulation of the parties an Order was entered taking the trial off calendar and setting this status hearing.	
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 8/19/16
		Updates: 8/23/16
		Recommendation:
		File 12- Davis

Probate Status Hearing Re: Filing of First Account

DOD: 12/12/74	DOLORES MEDINA , Daughter, was appointed Administrator with Limited IAEA without bond on 10/30/14 and Letters issued 10/31/14.	NEEDS/PROBLEMS/COMMENTS:
Cont'd from 102915, 010716, 031716, 051916	At the hearing on 10/30/14, the Court set this status hearing for the filing of the first account or petition for final distribution.	1. Need first account or petition for final distribution per Probate Code §12200.
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: skc
		Reviewed on: 8/19/16
		Updates:
		Recommendation:
		File 13 – Medina

First and Final Account and Report of Status of Administration of Administrator and Petition for Settlement Thereof; for Allowance of Statutory Attorney's Fees and Administrator's Compensation; for Extraordinary Attorney's Fees; for Costs Reimbursement and for Final Distribution

DOD:6/12/94		<p>JESUS M. MEJIA, Son and Administrator with Limited IAEA without bond, is Petitioner.</p> <p>Account period: 12/4/14 – 3/9/16 Accounting: \$85,000.00 Beginning POH: \$70,000.00 Ending POH: \$52,622.49 (Cash held in blocked account)</p> <p>Administrator (Statutory): \$3,400.00</p> <p>Administrator Costs: \$6,400.00 (Petitioner advanced costs for taxes, liens, forbearance agreement on the real property.)</p> <p>Attorney (Statutory): \$3,400.00</p> <p>Attorney Costs: \$2,915.00 (filing, obtaining death certificates, title report, publications, certified copies, recording, appraisals)</p> <p>Attorney (Extraordinary): \$6,500.00 (in connection with the sale of the real property, which included title issues and obtaining three continuances of a foreclosure sale, court confirmation of sale. Itemization reflects 40 hours @ \$275/hr totaling \$11,000; however, attorney will accept a discounted sum of \$6,500.00.)</p> <p>Closing Reserve: \$1,207.49</p> <p><u>SEE ADDITIONAL PAGES</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Minor Heir Autumn Mejia, age 16, still has not been given direct notice of this proceeding pursuant to Cal. Rule of Court 7.51(d). (Notice was only sent to her mother.) The Court may require further notice.</p> <p>2. The Court may require deposit of Autumn Mejia's share into a blocked account rather than to Juana Mejia under CUTMA. (A blocking order has been submitted.)</p> <p><i>Note: Petitioner filed a Waiver of Notice on 8/22/16 signed by Juana Mejia on behalf of Autumn Mejia; however, it does not appear that Juana Mejia has authority to waive notice on her daughter's behalf.</i></p>
Cont. from 051016, 063016			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input checked="" type="checkbox"/>	Inventory		
<input checked="" type="checkbox"/>	PTC		
<input checked="" type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters 12/4/14		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input checked="" type="checkbox"/>	FTB Notice		
		<p>Reviewed by: skc</p> <p>Reviewed on: 8/19/16</p> <p>Updates: 8/22/16</p> <p>Recommendation:</p> <p>File 14- Mejia</p>	

Page 2

The petition and subsequent declarations request distribution as follows pursuant to intestate succession, claims, and assignments:

- A. **Jesus M. Mejia:** \$14,400.00 (50%), to be distributed as follows:
- \$930.00 to the California Victim's Compensation and Government Claims Board
(See Declaration filed 5/25/16)
- \$2,400.00 to Strategic REI
- \$6,000.00 to Justin Cardenas
- 5,070.00 to Griselda Guillermina Sanchez
(See Declaration filed 5/31/16.)
- B. Juana Mejia, as Custodian under the Uniform Transfers to Minors Act, for **Autumn Cheyenne Mejia:**
\$3,600.00 (12.5%) (Per §13100 Declaration)
(See Issue #5 above.)
- C. **Johnny Lopez:** \$1,200.00 (4.166%)
D. **Alicia Lopez:** \$1,200.00 (4.167%)
E. **Art Lopez:** \$1,200.00 (4.167%)
F. **Paula Mejia:** \$3,600.00 (12.5%)
G. **Ana Martinez:** \$720.00 (2.5%)
H. **Jose Alfredo Martinez:** \$720.00 (2.5%)
I. **Antonio Martinez:** \$720.00 (2.5%)
J. **Jorgenia Hernandez:** \$720.00 (2.5%)
K. **Juanita Hernandez:** \$720.00 (2.5%)

Probate Status Hearing RE: Filing of the First and Final Account

DOD: 09/28/14	KATHLEEN E. FOSTER , sister, was appointed executor with full IAEA and without bond on 12/04/14.	NEEDS/PROBLEMS/COMMENTS: 1. Need first and final account and petition for final distribution. 2. Status report is not verified by Attorney Pascuzzi nor signed by the fiduciary, Kathleen Foster (Probate Codes 1021, 1023). 3. Need proof of service of the status hearing with a copy of the status report on all necessary parties pursuant to Local Rule 7.5.
	Letters issued 12/04/14.	
Cont. from 020416		
Aff.Sub.Wit.		
Verified	x	
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	x	
Aff.Mail	x	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
✓ Status Rpt		
UCCJEA		
Citation		
FTB Notice		

KATHLEEN E. FOSTER, sister, was appointed executor with full IAEA and without bond on 12/04/14.

Letters issued 12/04/14.

Minute order dated 12/04/14 set this status hearing regarding filing of the first and final account and petition for final distribution.

Final I&A filed 03/17/15: **\$190,213.83**

Minute order dated 2/4/2016 continued matter to 8/25/2016 at counsels' request due to related litigation.

Status report filed 8/15/2016 states there remains a pending lawsuit related to the estate (14CECG02421) wherein a claim has been filed by the plaintiff in that action. The estate is being represented by decedent's insurance carrier by and through the law firm of Petrie Dorfmeier, LLP. The second lawsuit referenced in the previous status report dated 1/22/2016, has been resolved as to the estate's liability.

Settlement discussions are ongoing as to the pending action. **It is requested this status hearing be continued for a minimum of six months for resolution of the pending lawsuit.**

Reviewed by: JF/SEF

Reviewed on: 8/19/2016

Updates:

Recommendation:

File 15 - Page

Attorney Gary L. Winter (for Conservator Jill McCool)

Probate Status Hearing Re: Filing of First Account

			JILL McCOOL , daughter, was appointed Conservator of the Estate on 6/8/2015. <i>Letters</i> issued 6/16/2015 following posting on 6/10/2015 of \$48,080.00 bond.	NEEDS/PROBLEMS/COMMENTS: 1. Need first account of the Conservatorship estate.
Cont. from			Notice of Setting Status Hearing filed 6/17/2015 set this status hearing on 8/25/2016 for the filing of the first account of the conservatorship.	
	Aff.Sub.Wit.			
✓	Verified		Status Report of Gary L. Winter, Attorney for Conservator filed 8/18/2016 states: <ul style="list-style-type: none"> Since opening the Conservatorship of the estate, the Conservator has completed and filed the Inventory and Appraisal, maintained Conservatee's bills, banking accounts and real and personal property; Conservator and her family reside with Conservatee to care for Conservatee. When Conservator is home from work, she cares for Conservatee, and while she works her daughters (granddaughters of Conservatee) care for him; Conservatee can use one hand, brushes his teeth, feeds himself, and reads the paper; Conservator feels that if at an assisted living facility, the Conservatee would be upset and uncomfortable; Conservatee qualified for hospice due to his history of a massive stroke and seizures; three (3) days per week, Hinds Hospice comes to the primary residence and bathes Conservatee; Conservator has retained the CPA firm, Price Paige and Company, to prepare an accounting for this Conservatorship; He anticipates that a 30 day continuance to file the First Account will be adequate time to complete the accounting. 	
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			
✓	Aff.Mail	W/		
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order			
	Aff. Posting			
✓	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			Reviewed by: LEG	
			Reviewed on: 8/19/16	
			Updates:	
			Recommendation:	
			File 16- Britton	

Attorney Gary G. Bagdasarian (for Guardian Laura Castillo)

Probate Status Hearing Re: Filing of the First or Final Account

		<p>LAURA CASTILLO, mother, was appointed Guardian of the Estate on 6/30/2015 without bond, with an order directing that within 30 days of receipt of any cash, said amount will be placed into a blocked account and receipt filed.</p> <p>Letters issued on 7/15/2015.</p> <p>Minute Order dated 6/25/2015 from the hearing on the petition for appointment of guardian of the estate set a status hearing on 8/25/2016 for the filing of a first or final account.</p> <p>Status Report filed 7/5/2016 states an Inventory and Appraisal reflecting that the only assets of the guardianship estate are an undivided interest in a vehicle and household furniture, furnishings and personal effects, was filed on 5/10/2016; the minor turns 18 on 12/8/2016; therefore, request is made for a continuance to file the First and Final Account and Report at termination of the Guardianship Estate on 1/5/2017.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>OFF CALENDAR</p> <p><i>First Account and Report of Guardian filed 8/19/2016 is set for hearing on 10/11/2016.</i></p> <p>1. Need first account of the guardianship estate pursuant to Probate Code § 2620.</p>
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202 Order		
<input type="checkbox"/>	Aff. Posting		
<input checked="" type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p>Reviewed by: LEG</p> <p>Reviewed on: 8/19/16</p> <p>Updates: 8/22/16</p> <p>Recommendation:</p> <p>File 17- Areyano</p>	

Petition for Acceptance of Accounting by Former Successor Trustee and Discharge of Former Successor Trustee

Elmer Seagraves DOD: 6/16/15		STEVEN SEAGRAVES , Former Successor Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>SEE PAGE 2</u>
Account period: 9/18/15 – 4/25/16 Accounting: \$248,104.31 Beginning POH: \$237,378.44 Ending POH: \$147,041.91 (Proceeds of sale of real property of \$147,051.75 less a negative account balance of \$9.84. Exhibit A is the accounting. Petitioner completed two capital transactions: a. Sale of all personal property for \$7,539.98, for a gain of \$1,500.00 b. Sale of the real property for \$158,500.00, for a loss of \$1,500.00 Exhibit B is itemization of expenses reimbursed to Petitioner in the amount of \$5,691.25 as reflected in Disbursements. Exhibit C is the appraisal of the personal property. Exhibit D is the appraisal of the real property. Exhibit E is Receipt executed by Bruce Bickel, Successor Trustee, for the balance remaining in the Seagraves Family Trust account in the amount of \$6,489.37 and the proceeds of the sale of the real property in the amount of \$147,051.75. Exhibit F is Receipt of Gregory Seagraves for distribution of personal property Exhibit G is Petitioner's Declaration re services rendered as successor trustee in support of trustee's fees of \$2,055.00 . Disbursements Schedule and itemization of expense reimbursement also reflects payments to Attorney Bagdasarian totaling \$24,234.15 . Pursuant to Order for Resignation of Trustee and Appointment of Successor Trustee filed 2/5/16, bond of \$30,000.00 was filed by Petitioner. Petitioner requests that the Court accept said account; that the Court exonerate his bond; and that the Court make all further and proper orders that the Court may deem necessary.			
Cont. from 063016			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	W	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input checked="" type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: skc Reviewed on: 8/19/16 Updates: 8/22/16, 8/23/16 Recommendation: File 18- Seagraves

Page 2

Objection filed 6/29/16 by Gregory Seagraves, in his capacity as agent for Darrell Leon Seagraves, Co-Trustee, states the accounting shows that Petitioner has paid a total of \$26,203.10 in attorney's fees. Objector believes this amount is unreasonable and requests a declaration be submitted detailing the services rendered and hourly rates charged that would allow Objector to evaluate whether specific charges are improper.

Although Objector does not object to the hourly rate charged by Petitioner for Trustee services, Objector does not believe the time records of Petitioner are accurate and believes some of the time charged is not within his duties as trustee. See Objection for specific objections to trustee time.

Objector states certain disbursements should not be approved. See Objection for specifics.

Objector states the property on hand schedule is incomplete as it does not list Ruby Seagraves' jewelry and tools. Objector alleges that Petitioner took some items for himself and gave away some to others rather than safeguarding the items for Ruby Seagraves.

Objector requests the accounting not be accepted or approved and that Steven Seagraves be surcharged in an amount according to proof, and for such further orders as the Court deems appropriate.

Response to Objection filed 8/10/16 states: The legal fees paid from the trust to Attorney Bagdasarian include two payments described on Exhibit A for which Steven Seagraves was reimbursed. See Exhibit A for details re services and rates. Petitioner provides explanation for the various specific issues raised by Objector. See response for details.

Petitioner requests the Court deny the objections, accept Petitioner's account, and exonerate Petitioner's bond.

NEEDS/PROBLEMS/COMMENTS:

1. The trust provides for distribution upon the surviving settlor's death to Steven and Darrell, or the survivor thereof, or if both fail to survive the Surviving Spouse, then the children of Steven and the children of Lisa, predeceased daughter, are the beneficiaries.

Petitioner states the children of Steven have been given notice; however, he is unaware of the addresses of Lisa's three children. The Court may require notice pursuant to Probate Code §§17201, 17203, and §15804(b) or due diligence in locating these individuals.

Update: Declaration re Diligence filed 8/23/16 states Attorney Bagdasarian has been advised by the Petitioner that he has had no contact with these relatives for several years and their whereabouts are unknown. The attorney was unable to locate them on Facebook, Google, White Pages, or real property title search through First American Title Company.

Attorney Steven R. Williams, of Visalia (for Administrator Eddie Sample)

Probate Status Hearing Status Re: Filing Bond

DOD: 11/26/2015	<p>EDDIE SAMPLE, son, was appointed as Administrator without IAEA authority and with bond set at \$5,000.00 on 6/20/2016.</p> <p>Minute Order dated 6/20/2016 from the hearing on the appointment set a status hearing on 7/20/2016 for the filing of the bond.</p> <p>Status Report filed on 7/18/2016 states the bond has been issued and has been sent to the Administrator, Eddie Sample for signature. It will be filed upon receipt which may not be prior to the 7/20/16 hearing date.</p> <p>Proof of Bond in the amount of \$5,000.00 was filed 7/21/2016.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 7/20/2016.</u> Please see Page 19B for Order to Show Cause.</p>
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	<p>Reviewed by: LEG</p> <p>Reviewed on: 8/19/16</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 19A- Sample</p>	

Attorney Steven R. Williams, of Visalia (for Administrator Eddie Sample)

Order to Show Cause

DOD: 11/26/2015		<p>EDDIE SAMPLE, son, was appointed as Administrator without IAEA authority and with bond set at \$5,000.00 on 6/20/2016.</p> <p>Minute Order dated 7/20/2016 from the hearing on the status of filing of the bond states: No Appearances. The Court issues an Order to Show Cause to Steven Williams as to why he should not be sanctioned for his failure to appear and as to Eddie Sample as to why he should not be removed as Administrator for failure to file the Bond. Mr. Williams is ordered to be personally present and Mr. Sample is ordered to be personally present in Court or present via CourtCall on 8/24/2016.</p> <p>Order on Ex Parte Application to Continue Order to Show Cause Hearing Date filed 8/8/2016 continues for good cause the hearing set for 8/24/2016 to 8/25/2016.</p> <p>Response to Order to Show Cause filed 7/28/2016 states:</p> <ul style="list-style-type: none">On 6/16/2016 the proposed Order appointing Eddie Sample was submitted for the June 20, 2016 hearing together with a self-addressed stamped envelope to allow for an endorsed copy of the Order to be returned to our office;On June 20, 2016 this court appointed Eddie Sample as Administrator subject to the filing of his bond in the sum of \$5,000.00;An endorsed copy of the Order was required of the bonding company for the purpose of issuing the bond; following the hearing we made several inquiries of the Clerk's office as to our lack of receipt of an endorsed copy of the order and were told that the Clerk's office was simply behind in processing the paperwork;The endorsed copy of the Order was not received by our offices until 7/11/2016 (21 days after entry) and was submitted to the bonding company on that date; <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
Cont. from			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
✓	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Response to Order to Show Cause filed 7/28/2016, continued:

- The bond was duly issued on 7/13/2016 and sent to Eddie Sample, in Stockton, California for his signature on 7/13/2016 by overnight delivery; simultaneously on 7/13/2016, he prepared and filed a Status Report Re Bond Issuance to inform the Court that the bond had been issued, was being sent for signature, and would be filed upon receipt;
- Upon receipt of the bond on 7/19/2016 signed by Mr. Sample, he transmitted the bond to this court for filing;
- He assumed, apparently incorrectly, that the Status Report showing that the bond had been issued, would have been considered by the Court as substantial compliance of the filing requirement to avoid the necessity of the hearing;
- In due course, the bond was filed in this matter *[on 7/21/2016]* as represented with an endorsed copy received by us on 7/25/2016;
- Had we simply received an endorsed copy of the Order in a more timely fashion the matter would have been moot;
- He currently has five matters set for hearing on 8/24/2016 at 8:30 a.m. in Departments 2, 7 and 8 of the Tulare County Superior Court making an appearance at 9:00 am in Fresno for this matter an impossibility; in the interest of judicial economy, he *[filed an Ex Parte Application on 8/8/2016]* to request that the matter set for 8/24/2016 at 9:00 am be continued to the following day, 8/25/2016 at 9:00 am, *[which request was granted on 8/10/2016.]*

Petitioner Alvarado, Jacqueline (Pro Per – Maternal Aunt)

Petition for Appointment of Guardian of the Person

Age: 7 months		<p>Temporary Denied on 06/22/2016 GENERAL HEARING was 7/14/2016 and continued to 08/23/2016</p> <p>JACQUELINE ALVARADO, maternal aunt, is petitioner.</p> <p><u>Please see petition for details</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order of 07/14/2016: The Court will need proof that the mother is not living in the proposed guardian's home. The child is to stay where he is living at this time.</p> <p>1. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice for:</p> <ul style="list-style-type: none"> Unknown Father – Unless the Court dispenses with notice <p>Note: Declaration of Due Diligence filed 05/13/2016. According to Minute Order of 05/31/2016 the mother represented that the father's first name is George, last name unknown.</p> <p>2. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice for:</p> <ul style="list-style-type: none"> Paternal Grandparents (Unknown) – Unless the Court dispenses with notice <p>Note: Declaration of Due Diligence filed 05/19/2016; and 07/05/2016.</p>	
Cont. from 071416				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input type="checkbox"/>	Aff.Mail			X
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			X
<input checked="" type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input checked="" type="checkbox"/>	CI Report			
<input checked="" type="checkbox"/>	9202			
<input type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input checked="" type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
<p>Reviewed by: LV</p> <p>Reviewed on: 08/17/2016</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 20- Moreno</p>				

Petitioner

Ragsdale, Alyssabeth Rose (Pro Per – Sister – Petitioner)

Objector

Ibarra, Rosenda (Pro Per – Mother – Objector)

Petition for Appointment of Guardian of the Person

See petition, objection for details.			NEEDS/PROBLEMS/ COMMENTS:
			Minute Order 7/21/16: The Court grants the request to remove grandmother as third party visitor supervisor. Court Investigator needs more time to meet with the petitioner and minor in their new home.
Cont. from 072116			Note: See minute order of 6/8/16 re visitation for Rosenda Ibarra (mother).
	Aff.Sub.Wit.		
✓	Verified		1. Need proof of personal service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing, or consent and waiver of notice, or declaration of due diligence on: - RICHARD IBARRA, Father
	Inventory		
	PTC		2. Per the Investigator's report, the petitioner has moved to Merced with the minor. Therefore, need Change of Address and revised order, letters reflecting the new address.
	Not.Cred.		
✓	Notice of Hrg		Reviewed by: skc
✓	Aff.Mail	W	
	Aff.Pub.		Reviewed on: 8/19/16
	Sp.Ntc.		Updates: 8/22/16
✓	Pers.Serv.	W	Recommendation:
✓	Conf. Screen		File 21- Ibarra
✓	Letters		
✓	Duties/Supp		
✓	Objections		
	Video Receipt		
✓	CI Report		
✓	Clearances		
✓	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		

Petition to Determine Succession to Real Property and Personal Property

DOD: 1/11/2016		VINCENT MEDINA , son, is petitioner	NEEDS/PROBLEMS/COMMENTS:
		40 days since DOD	
		No other proceedings	
Cont. from 072116			
<input type="checkbox"/>	Aff.Sub.Wit.	I&A - \$55,512.97	
<input checked="" type="checkbox"/>	Verified		
<input checked="" type="checkbox"/>	Inventory	Will dated 8/21/2012 – devises entire estate consisting of cash and real property, to Vincent Medina	
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Petitioner requests Court determination that decedent's 50% interest in real property described as APN 465-176006 and 100% interest in personal property (cash) pass to Vincent Medina pursuant to decedent's will.	
<input checked="" type="checkbox"/>	Aff.Mail	w/	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: SEF
			Reviewed on: 8/19/2016
			Updates:
			Recommendation: SUBMITTED
			File 22- Medina

Petitioner Rosalie Cruz Gomez (Pro Per, maternal grandmother)
 Petitioner Vanessa Sabrina Gomez (maternal aunt)

Petition for Appointment of Guardian of the Person

			NO TEMPORARY REQUESTED	NEEDS/PROBLEMS/COMMENTS:
			ROSALIE CRUZ GOMEZ , maternal grandmother, and VANESSA SABRINA GOMEZ , maternal aunt, are Petitioners.	1. Need Attachment 11 explaining the answer to Item 11 of both Petitioners' Confidential Guardian Screening forms filed on 6/24/2016.
			<i>~Please see Petition for details~</i>	
Cont. from			Court Investigator's Report was filed on 8/18/2016.	
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	W/		
	Aff.Pub.			
	Sp.Ntc.			
✓	Pers.Serv.	W/		
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
✓	CI Report			
✓	Clearances			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
				Reviewed by: LEG
				Reviewed on: 8/19/16
				Updates:
				Recommendation:
				File 23- Gonzales

Petition for Letters of Special Administration with General Powers

DOD: 6/28/14		RODNEY G. SMITH and MICHAEL H. SMITH, SR., Sons, are Petitioners and request that RODNEY G. SMITH (sic) be appointed as Special Administrator with general powers without bond.	NEEDS/PROBLEMS/COMMENTS: <u>Minute Order 8/10/16:</u> Continued to meet up with the Public Guardian's First and Final Account. <u>Note:</u> Although #2b requests appointment of Rodney G. Smith, elsewhere in the document Petitioners identify MARION AUSTIN as their nominee for Special Administrator. Ms. Austin consents to serve as both Special Administrator and Administrator. <u>SEE ADDITIONAL PAGES</u>
Cont. from 081016		Petitioners state they have priority of appointment as the sons of the decedent and nominate MARION AUSTIN, a licensed professional fiduciary, to serve.	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified	Petitioners state they are the sole heirs and waive bond.	
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC	General powers – ok	
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Petitioners state decedent died intestate.	
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.	Residence: Fresno Publication: Fresno Business Journal	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	Estimated value of estate: Personal property: \$ 5,000.00 Annual income: \$ 30,000.00 Real property: \$450,000.00 Total: \$485,000.00	
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters	Probate Referee: Rick Smith	
<input checked="" type="checkbox"/>	Duties/Supp		
<input checked="" type="checkbox"/>	Objections	Petitioners state prior to the decedent's death, he was conserved. His conservatorship was consolidated with his wife's, Dorothy Dean Smith, who is also deceased and was conserved before her death under Case No. 11CEPR00782.	
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report	Currently pending before this Court is an Amended First and Final Account and Report of Conservator in Dorothy's conservatorship estate and a First and Final Account and Report of Conservator in Decedent's conservatorship. Both petitions seek the approval of conservator Public Guardian's accounting and the distribution of the conservatorship estate assets.	
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order	<u>SEE ADDITIONAL PAGES</u>	Reviewed by: skc Reviewed on: 8/19/16 Updates: Recommendation: File 24A- Smith
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Page 2 – Petitioners state (Cont'd):

Petitioner Rodney G. Smith, joined by his brother and co-petitioner Michael H. Smith, Sr., seek to compel the distribution of the Decedent's conservatorship estate to his probate estate. In order to accomplish this, Decedent's estate must be opened and a personal representative appointed in order to receive the conservatorship estate assets.

Petitioners seek the appointment of professional fiduciary Marion Austin as Administrator; however, special letters are sought so that there is immediately someone appointed who can receive the conservatorship assets in the event an order to distribute the assets is entered before appointment of Marion Austin as Administrator.

Concurrently with the filing of this petition, Petitioners seek the appointment of Marion Austin as Administrator and Special Administrator of Dorothy's estate. In addition, Petitioners are challenging the decedent's estate plan. Petitioners expect the litigation regarding Ben's estate plan could take upward of 12-18 months to litigate through trial. During such time the estates' properties need to be managed in efficient and professional manner.

The appointment of a neutral party who is a professional licensed fiduciary is necessary to safeguard the estate and preserve the assets. Currently, Michael "Butch" Smith, Jr., the grandson of the decedent, purports to be the sole heir of Ben's estate (via his trust). The estate plan was executed years after Ben was diagnosed with dementia and during a time when Butch was isolating Ben.

Petitioner understands that the distrust among Butch, on the one hand, and Michael and Rodney, on the other hand, make having either side (or both sides) responsible for managing the properties pending the dispute an untenable situation.

General powers are needed and sought so that the Special Administrator has full power and authority to manage both Decedent's and Dorothy's estate pending the litigation.

On 8/1/16, Michael H. Smith, Jr., aka Butch Smith, filed Objections to:

- 1) Petition for Letters of Administration;**
- 2) Appointment of Rodney G. Smith as Special Administrator; and**
- 3) Appointment of Marion Austin as Administrator.**

Note re Objection: Objector consolidated his objections to both the Petition for Letters of Administration and the separate Petition for Letters of Special Administration into one document, and in doing so, paid only one filing fee. The Court may require the Objections to be amended to be separately filed and payment of a separate filing fee for each.

SEE ADDITIONAL PAGES

Page 3 – Objections filed 8/1/16: Objector provides procedural status and synopsis of the two conservatorship proceedings and states the original will dated 8/1/11 was deposited into 14CEPR00600. Mr. Jaech is the attorney who prepared the decedent's will dated 8/1/11. For unknown reasons, Petitioners failed to inform the Court of the existence of the will dated 8/1/11. Instead, Petitioners informed the Court that the decedent was intestate.

Objector is the named executor in the will dated 8/1/11 and is entitled to contest the appointment of Marion Austin as Administrator and Rodney Smith as Special Administrator.

Objector states there is no need for appointment of a special administrator. Nothing can happen in the decedent's estate until the Court has heard the objection filed by Butch Smith because the Public Guardian is holding the assets! (Emphasis in original.)

Further, given the history of the two conservatorship estates, there is good reason to believe the petitioners herein will not act in the best interest of the estate of the decedent, but will instead favor the interests of the Estate of Dorothy Jean Smith.

In this regarding, contestant is the only person who responded to the two pending petitions filed by the Public Guardian. Petitioners filed no objection regarding the proposed distribution from the conservatorship estates because the petitions for distribution filed by the Public Guardian favor them as beneficiaries of the Estate of Dorothy Jean Smith.

Critically, Petitioners failed to identify decedent's will, or bring such will to the attention of the Court. The Court may consider such omission as lack of candor on the part of Petitioners.

There is no reason to appoint a third party administrator. Butch Smith has proven his continuing ability to protect the assets of the Ben Smith estate against adverse claims. Butch Smith is the named executor of the decedent's will. Neither of the petitioners are so named.

Objector states Rodney Smith should not be appointed Special Administrator because Objector as named executor has a superior right to appointment, and there is no exigency that requires appointment of a special administrator. Objector states Rodney Smith as agent of petitioners will take actions that favor the beneficiaries of the Estate of Dorothy Jean Smith at the expense of the beneficiaries of the Estate of Benjamin H. Smith.

Objector states Marion Austin should not be appointed Administrator because Objector as named executor has a superior right to appointment, and as agent of Petitioners, she will take actions that favor the beneficiaries of the Estate of Dorothy Jean Smith at the expense of the beneficiaries of the Estate of Benjamin H. Smith.

Objector prays: 1) that Rodney G. Smith not be appointed as special administrator; 2) that Marion Austin not be appointed Administrator with Full IAEA; 3) for costs of suit incurred herein; and 4) for such other and further relief as the Court deems just, equitable, and proper.

SEE ADDITIONAL PAGES

Page 4 – NEEDS/PROBLEMS/COMMENTS:

1. Petitioners are separately represented; however, this petition is not signed by Catherine A. Amador, attorney for Michael H. Smith, Sr.

Note: Pursuant to Probate Code §§ 8543 and 8481(b), notwithstanding waiver of bond beneficiaries, or on petition of any interested person or on its own motion, the court may for good cause require bond. The Court may require bond of \$485,000.00.

Attorney
AttorneyJanisse, Ryan Michael (for Petitioners Rodney G. Smith and Michael Smith, Sr.)
Krbechek, Randolph (for Objector Michael Smith, Jr., aka Butch Smith)

Petition for Letters of Administration; Authorization to Administer Under the IAEA

DOD: 6/28/14		RODNEY G. SMITH and MICHAEL H. SMITH, SR., Sons, are Petitioners and request that MARION AUSTON, a licensed professional fiduciary, be appointed as Administrator with Full IAEA without bond.	NEEDS/PROBLEMS/COMMENTS: Minute Order 8/10/16: Continued to meet up with the Public Guardian's First and Final Account. Note: Michael H. Smith, Jr., aka Butch Smith filed a competing petition for Probate of Will and for Letters Testamentary that is set for hearing on 9/13/16. Note re Objection: Objector consolidated his objections to <u>both</u> the Petition for Letters of Administration and the separate Petition for Letters of Special Administration into one document, and in doing so, paid only one filing fee. The Court may require the Objections to be amended to be separately filed and payment of a separate filing fee for each.
Cont. from 081016			
	Aff.Sub.Wit.	Petitioners state they have priority of appointment as the sons of the decedent and nominate Marion Austin to serve.	
✓	Verified		
	Inventory	Petitioners state they are the sole heirs and waive bond.	
	PTC		
	Not.Cred.	Full IAEA – ok	
✓	Notice of Hrg		
✓	Aff.Mail	Petitioners state Decedent died intestate.	
✓	Aff.Pub.		
	Sp.Ntc.	Residence: Fresno	
	Pers.Serv.	Publication: Fresno Business Journal	
	Conf. Screen	Estimated value of estate:	
✓	Letters	Personal property: \$ 5,000.00	
✓	Duties/Supp	Annual income: \$ 30,000.00	
✓	Objections	Real property: \$450,000.00	
	Video Receipt	Total: \$485,000.00	
	CI Report	Probate Referee: Rick Smith	
	9202	On 8/1/16, Michael H. Smith, Jr., aka Butch Smith, filed Objections to:	
✓	Order	4) Petition for Letters of Administration;	
	Aff. Posting	5) Appointment of Rodney G. Smith as Special Administrator; and	
	Status Rpt	6) Appointment of Marion Austin as Administrator.	
	UCCJEA		
	Citation		
	FTB Notice		
		<u>SEE ADDITIONAL PAGES</u>	<u>SEE ADDITIONAL PAGES</u>
			Reviewed by: skc
			Reviewed on: 8/19/16
			Updates:
			Recommendation:
			File 24B- Smith

Page 2 – Objections filed 8/1/16: Objector provides procedural status and synopsis of the two conservatorship proceedings and states the original will dated 8/1/11 was deposited into 14CEPR00600. Mr. Jaech is the attorney who prepared the decedent's will dated 8/1/11. For unknown reasons, Petitioners failed to inform the Court of the existence of the will dated 8/1/11. Instead, Petitioners informed the Court that the decedent was intestate.

Objector is the named executor in the will dated 8/1/11 and is entitled to contest the appointment of Marion Austin as Administrator and Rodney Smith as Special Administrator.

Objector states there is no need for appointment of a special administrator. Nothing can happen in the decedent's estate until the Court has heard the objection filed by Butch Smith because the Public Guardian is holding the assets! (Emphasis in original.)

Further, given the history of the two conservatorship estates, there is good reason to believe the petitioners herein will not act in the best interest of the estate of the decedent, but will instead favor the interests of the Estate of Dorothy Jean Smith.

In this regarding, contestant is the only person who responded to the two pending petitions filed by the Public Guardian. Petitioners filed no objection regarding the proposed distribution from the conservatorship estates because the petitions for distribution filed by the Public Guardian favor them as beneficiaries of the Estate of Dorothy Jean Smith.

Critically, Petitioners failed to identify decedent's will, or bring such will to the attention of the Court. The Court may consider such omission as lack of candor on the part of Petitioners.

There is no reason to appoint a third party administrator. Butch Smith has proven his continuing ability to protect the assets of the Ben Smith estate against adverse claims. Butch Smith is the named executor of the decedent's will. Neither of the petitioners are so named.

Objector states Rodney Smith should not be appointed Special Administrator because Objector as named executor has a superior right to appointment, and there is no exigency that requires appointment of a special administrator. Objector states Rodney Smith as agent of petitioners will take actions that favor the beneficiaries of the Estate of Dorothy Jean Smith at the expense of the beneficiaries of the Estate of Benjamin H. Smith.

Objector states Marion Austin should not be appointed Administrator because Objector as named executor has a superior right to appointment, and as agent of Petitioners, she will take actions that favor the beneficiaries of the Estate of Dorothy Jean Smith at the expense of the beneficiaries of the Estate of Benjamin H. Smith.

Objector prays: 1) that Rodney G. Smith not be appointed as special administrator; 2) that Marion Austin not be appointed Administrator with Full IAEA; 3) for costs of suit incurred herein; and 4) for such other and further relief as the Court deems just, equitable, and proper.

SEE ADDITIONAL PAGES

Page 3 – NEEDS/PROBLEMS/COMMENTS:

1. Petitioners state the decedent died intestate at #3e; however, an original will dated 8/1/11 was deposited with the Court on 7/17/14, which is requested to be admitted to probate by Objector in his competing petition. Need clarification.

Note: Pursuant to Probate Code §8481(b), notwithstanding waiver of bond by will or beneficiaries, or on petition of any interested person or on its own motion, the court may for good cause require bond. The Court may require bond of \$485,000.00.

If granted, the Court will set status hearings as follows:

- Wednesday, October 13, 2016 for filing of bond of \$485,000.00, if required
- Wednesday, January 26, 2017 for filing Inventory and Appraisal
- Wednesday, October 26, 2017 for filing the first account or petition for final distribution

Attorney
AttorneyJanisse, Ryan Michael (for Petitioner Rodney G. Smith)
Amador, Catherine A. (for Petitioner Michael H. Smith, Sr.)

Petition for Letters of Special Administration with General Powers

DOD: 10/18/12		<p>RODNEY G. SMITH and MICHAEL H. SMITH, SR., Sons, are Petitioners and request that MARION AUSTON, a licensed professional fiduciary, be appointed as Special Administrator with general powers without bond.</p> <p>Petitioner Michael H. Smith, Sr., is the named executor pursuant to the decedent's will.</p> <p>Petitioners state they have priority of appointment as the sons of the decedent and nominate Marion Austin to serve.</p> <p>Petitioners state they are the sole heirs and waive bond.</p> <p>General powers – ok</p> <p>Will dated 10/24/11</p> <p>Residence: Kerman Publication: Fresno Business Journal</p> <p>Estimated value of estate: Personal property: \$ 5,000.00 Annual income: \$ 30,000.00 Real property: \$450,000.00 Total: \$485,000.00</p> <p>Probate Referee: Rick Smith</p> <p>Petitioners state prior to the decedent's death, she was conserved. Her conservatorship was consolidated with her husband's BENJAMIN H. SMITH, who is also deceased and was conserved before his death under Case. No. 11CEPR00782.</p> <p>Currently pending before this Court is an Amended First and Final Account and Report of Conservator in Decedent's conservatorship estate and a First and Final Account and Report of Conservator in Ben's conservatorship. Both petitions seek the approval of conservator Public Guardian's accounting and the distribution of the conservatorship estate assets.</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Minute Order 8/10/16:</u> Continued to meet up with the Public Guardian's First and Final Account. For the record, there appears to be no objection by any party and the Court will consider ruling on 8/25/16.</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	
Cont. from 081016				
	Aff.Sub.Wit.			
✓	Verified			
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	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: skc

Reviewed on:
8/19/16

Updates:

Recommendation:

File 25A- Smith

Page 2 – Petitioners state (Cont'd):

Petitioner Rodney G. Smith, joined by his brother and co-petitioner Michael H. Smith, Sr., seek to compel the distribution of the Decedent's conservatorship estate to her probate estate. In order to accomplish this, Decedent's estate must be opened and a personal representative appointed in order to receive the conservatorship estate assets.

Petitioners seek the appointment of professional fiduciary Marion Austin as Administrator with Will Annexed; however, special letters are sought so that there is immediately someone appointed who can receive the conservatorship assets in the event an order to distribute the assets is entered before appointment of Marion Austin as Administrator with Will Annexed.

Furthermore, Petitioners are challenging Decedent's husband's estate plan. Concurrently with the filing of this petition, Petitioners seek the appointment of Marion Austin as Administrator and as Special Administrator of Ben's estate. Petitioners expect the litigation regarding Ben's estate plan could take upward of 12-18 months to litigate through trial. During such time Ben and Decedent's estate properties need to be managed in efficient and professional manner.

The appointment of a neutral party who is a professional licensed fiduciary is necessary to safeguard the estate and preserve the assets. Currently, Michael "Butch" Smith, Jr., the grandson of the decedent, purports to be the sole heir of Ben's estate (via his trust). The estate plan was executed years after Ben was diagnosed with dementia and during a time when Butch was isolating Ben.

Even though Petitioner Michael is the named executor under Decedent's will, he understands that the distrust among Butch, on the one hand, and Michael and Rodney, on the other hand, make having either side (or both sides) responsible for managing the properties pending the dispute an untenable situation.

General powers are needed and sought so that the Special Administrator has full power and authority to manage both Decedent's and Ben's estate pending the litigation.

SEE ADDITIONAL PAGES

Page 3 – NEEDS/PROBLEMS/COMMENTS:

2. Petitioners are separately represented; however, this petition is not signed by Catherine A. Amador, attorney for Michael H. Smith, Sr.
3. The decedent's will, which is requested to be admitted to probate at Page B, devises her estate to the Trustee of the Dorothy Jean Smith Living Trust; however, Petitioners do not state at #8 who the trustee or beneficiaries of that trust are. Therefore, need declaration setting forth this information and notice to any trust beneficiaries not listed, pursuant to #2 above.
4. Need waiver of bond from the Trustee of the Dorothy Jean Smith Living Trust, which is the sole heir per the decedent's will.

Note: Pursuant to Probate Code §§ 8543 and 8481(b), notwithstanding waiver of bond by will or all beneficiaries, or on petition of any interested person or on its own motion, the court may for good cause require bond. The Court may require bond of \$485,000.00.

Attorney
Attorney

Janisse, Ryan Michael (for Petitioner Rodney G. Smith)
Amador, Catherine A. (for Petitioner Michael H. Smith, Sr.)

**Petition for Probate of Will and for Letters of Administration with Will Annexed;
Authorization to Administer Under the IAEA**

DOD: 10/18/12		<p>RODNEY G. SMITH and MICHAEL H. SMITH, SR., Sons, are Petitioners and request that MARION AUSTON, a licensed professional fiduciary, be appointed as Administrator with Will Annexed with Full IAEA without bond.</p> <p>Petitioner Michael H. Smith, Sr., is the named executor pursuant to the decedent's will.</p> <p>Petitioners state they have priority of appointment as the sons of the decedent and nominate Marion Austin to serve.</p> <p>Petitioners state they are the sole heirs and waive bond.</p> <p>Full IAEA – ok</p> <p>Will dated 10/24/11</p> <p>Residence: Kerman Publication: Fresno Business Journal</p> <p>Estimated value of estate: Personal property: \$ 5,000.00 Annual income: \$ 30,000.00 Real property: \$450,000.00 Total: \$485,000.00</p> <p>Probate Referee: Rick Smith</p> <p>Petitioners state the decedent and her husband, BENJAMIN H. SMITH were both conserved at the time of their deaths (Consolidated Case No. 11CEPR00782). Petitioners are contesting Ben's will and trust. Since the conservatorship estates each own undivided 50% interests in Decedent's and Ben's assets, Petitioners seek to have Professional fiduciary Marion Austin appointed so the properties can be managed pending resolution of the contest of Ben's estate plan. The estate properties consist of rental properties that are producing income.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Minute Order 8/10/16:</u> Continued to meet up with the Public Guardian's First and Final Account. For the record, there appears to be no objection by any party and the Court will consider ruling on 8/25/16.</p> <p><u>SEE PAGE 2</u></p>	
Cont. from 081016				
<input type="checkbox"/>	Aff.Sub.Wit.			S/P
<input checked="" type="checkbox"/>	Verified			
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<input checked="" type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
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<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			

Page 2 – NEED/PROBLEMS/COMMENTS:

1. Petitioners are separately represented; however, this petition is not signed by Catherine A. Amador, attorney for Michael H. Smith, Sr.
2. Need original will pursuant to Probate Code §8200.
3. Need waiver of bond from Michael Smith, Sr., as the Trustee of the Dorothy Jean Smith Living Trust, which is the sole heir per the decedent's will.

Note: Pursuant to Probate Code §8481(b), notwithstanding waiver of bond by will or beneficiaries, or on petition of any interested person or on its own motion, the court may for good cause require bond. The Court may require bond of \$485,000.00.

4. It appears the decedent resided within the city limits of the City of Kerman at her death; therefore, pursuant to Local Rule 7.9, publication should have been in the Kerman News rather than the Fresno Business Journal. The Court may require republication.

If granted, the Court will set status hearings as follows:

- Wednesday, October 13, 2016 for filing of bond of \$485,000.00, if required
- Wednesday, January 26, 2017 for filing Inventory and Appraisal
- Wednesday, October 26, 2017 for filing the first account or petition for final distribution

26 In re the Testamentary Trusts under the Estate of Grace Masao Minami
Case No. 16CEPR00727

Attorney Rindlisbacher, Curtis D. (for Trustee William Enns)

Attorney Goff, Charles A. (of Santa Maria, for Beneficiaries/Objectors Sam Minami and Susan Jang)

**Petition for Determination of Reasonableness of Trustee Compensation and
Approval of Additional Compensation**

			WILLIAM ENNS , Successor Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Note: Beneficiaries' Response (Objection) to Petition was filed 8/23/16 by Beneficiaries Sam Minami and Susan Jang. See additional pages. <u>SEE ADDITIONAL PAGES</u>
			Petitioner states he was appointed successor trustee by order of the Santa Barbara Superior Court in Case No. SM-099610 on 1/15/10; however, he had begun providing services following the death of Isamu Minami in March 2009. The day to day activity of Petitioner as successor trustee was performed by Petitioner in Fresno County, where Petitioner resides and works.	
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg		Pursuant to the Decree of Distribution, three separate trust shares were created:	
✓	Aff.Mail		1) the Grace Minami Exemption Trust ;	
	Aff.Pub.		2) the Grace Minami Marital Trust ; and	
	Sp.Ntc.		3) the Isamu Minami Survivor's Trust .	
	Pers.Serv.		However, the trust does not require physical segregation of the trust assets except for purposes of distribution.	
	Conf. Screen			
	Letters		The community property interest of Isamu Minami was included among the probate assets of the Estate of Grace Minami and were ordered distributed as part of the Survivor's Trust. From the time that Petitioner was appointed, he has designated the Survivor's Trust as the Isamu Minami Administrative Trust.	
	Duties/Supp			
✓	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	x	The trust provides for reasonable compensation and reimbursement of expenses to the trustee, and requires accounting to current income beneficiaries at Sections 4.2 and 4.3. Section 3.10 authorizes the trustee to employ, compensate, and grant discretionary authority to agents, managers, attorneys, accountants, brokers, investment counselors, and others,	
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
<u>SEE ADDITIONAL PAGES</u>				Reviewed by: skc Reviewed on: 8/19/16 Updates: 8/23/16 Recommendation: File 26- Minami

26 In re the Testamentary Trusts under the Estate of Grace Masao Minami
Case No. 16CEPR00727

Page 2

Petitioner states he was also appointed personal representative of the Estate of Isamu Minami on 3/12/10 in Santa Barbara Superior Court Case No. 1318450. Petitioner submitted inventories in the probate matter that mistakenly included assets that were properly part of the trust estates. Amended inventories are being submitted to correct this error.

Petitioner states he will be entitled to his statutory fee in the mount of \$18,660 in the probate matter, which is in addition to any compensation received for services as trustee. (*Note: Petitioner indicates \$18,606 elsewhere in the petition.*)

Petitioner states he commenced his service as trustee upon the death of Isamu Minami in March 2009 and through the end of 2014 performed significant and extraordinary services in this matter for the benefit of the trusts.

Petitioner requests approval of trustee's compensation in the amount of \$296,740. After receiving statutory compensation of \$18,606 (sic), his total compensation as trustee and personal representative will total \$315,346. Of this amount, Petitioner has already been paid \$200,500.

Petitioner states this amount is reasonable under the circumstances and is based on the factors described in Probate Code §15680 and California Rule of Court 7.776. He has provided significant services beyond those normally required of a trustee because of the complex nature of the trust's assets and the need to deal with partnership and debt issues of \$1,500,000, litigation over partnership debt issues, disputed claims for assets sold prior to Isamu Minami's death, option agreements, and sales of assets of \$4,200,000.

Petitioner estimates he has spent 1,604 hours on what he considers extraordinary services from Isamu Minami's death in 2009 through the end of 2014. In addition, he estimates an additional 496 hours on routine responsibilities. His record is based on a current review of over 2,500 emails, correspondence and communications, all of which is available for review.

Petitioner states he has charged a fee base for his trustee services between .90 and 1.35% of the whole trust value, which is based on a formula charged by Union Bank. The total trustee fees paid to date is \$200,500. The Union Bank rate and formula was also used in filing a request for trustee fees from the Residual Trust u/w of Yataro Minami for Isamu Minami Services as trustee for 275 months prior to the one-year anniversary of his date of death.

Petitioner requests approval of compensation of \$315,346. Based on the total hours expended providing services at an hourly rate of \$185/hr. Petitioner believes this to be very reasonable given the nature and difficulty of the tasks performed, results achieved, benefit of services, Petitioner's significant experience, knowledge and skill in dealing with the unique assets of the Minami family since September 1976, given his history with the family and their assets, and the amount of risk and responsibility assumed. The services were not routine. They required more than ordinary skill and judgment and he has performed all services with an eye to doing what was best for the trust and estate and ultimately the beneficiaries.

SEE ADDITIONAL PAGES

Dept. 303, 9:00 a.m. Thursday, August 25, 2016

26 In re the Testamentary Trusts under the Estate of Grace Masao Minami
Case No. 16CEPR00727

Page 3

Petitioner states he attended the funeral of Isamu Minami on 3/31/09 and was informed by Bob Weaver, attorney for the deceased, that he was designed trustee of the Exemption Trust and the Marital Deduction Trust created under the will of Grace Minami and the decree of distribution of her estate. He was also informed that in Isamu Minami's will, he was nominated as personal representative of the Estate of Isamu Minami and appointment as trustee of the Isamu Minami Administrative Trust (Survivor's Trust).

On 4/17/09, a meeting was held at Isamu Minami's home with the beneficiaries, Dick Weldon, Bob Weaver, and Dan Iriyama. Afterward, Petitioner began the process of reviewing and collecting information re property, debts, vendors, and issues related to operating entities. Petitioner began obtaining appraisals and initiating legal proceedings as needed to move forward with the various trusts and estate. Petitioner estimates 892 hours over 69 months from 2009 through the end of 2014 on the subject of the family, history, 3 trusts, and partnership. See petition re descriptions of various specific actions performed and time spent thereon.

Petitioner prays for a Court order as follows:

1. Approving the compensation previously paid to Petitioner in the amount of \$200,500.00;
2. Approving additional compensation of \$114,846.00; and
3. For such other and further orders as the Court deems appropriate.

Beneficiaries' Response to Petition filed 8/23/16 by Sam Minami and Susan Jang states they object to Mr. Enns' request for compensation on the basis that the fees he is requesting are usurious and not commensurate with his experience or level of service provided to the trust. Mr. Enns is seeking double compensation from the Probate Court and from this court for management of the same assets that he commingled. He is attempting to unilaterally change the method of compensation for his own enrichment, even as to the compensation he has already paid himself. The Beneficiaries state Mr. Enns should be subject to surcharge for the capital gains taxes incurred on the sale of the Home Ranch on the grounds that he failed to discuss the projected tax consequences with the beneficiaries of the sale or options to avoid or minimize capital gains taxes, such as an IRC §1031 exchange.

The Beneficiaries state they are the children of Isamu Minami and Grace Minami. There is a probate proceeding pending for the Estate of Isamu Minami in Santa Barbara Superior Court Case No. 1318450. H. Timothy J. Staffel is the assigned Judge. Mr. Enns is the successor trustee of the trusts created by order of final distribution of the Estate of Grace Minami in Santa Barbara County Superior Court Case No. SM099610, filed 12/18/97. Isamu was the trustee until his death on 3/24/09. Mr. Enns was appointed successor trustee by order filed 1/15/10. Mr. Enns has also served as executor of Isamu's estate since on or about 3/12/10.

The Beneficiaries state Mr. Enns has a fiduciary duty to act in the highest good faith towards the beneficiaries and not take advantage by the slightest concealment. The law provides that Mr. Enns may only charge fees against the trusts when they benefit the trusts. See authority cited.

SEE ADDITIONAL PAGES

26 In re the Testamentary Trusts under the Estate of Grace Masao Minami
Case No. 16CEPR00727

Page 4 – Beneficiaries state (Cont'd):

Calculation of fees: The Beneficiaries state Mr. Enns has charged trustee fees based on the total value of the assets he has managed, and paid himself \$200,500 between December 2009 and October 2014. The Beneficiaries have known Mr. Enns since they were children and trusted him to be fair and charge reasonable fees. They were aware of the fees he was charging, and per the petition, he based those fees on the Union Bank annual rates of between .90 and 1.35% of the total value of the assets. He gave the beneficiaries a statement each year showing the trust expenses, which included his fees.

The Beneficiaries did not know that the Union Bank rates that Mr. Enns charged were appropriate for a professional trustee. Mr. Enns is a real estate broker, not a professional trustee. They are informed and believe that an annual fee based on a percentage of 0.75-1% of the total value of assets is considered reasonable.

Beneficiaries state Mr. Enns was also required to account to Beneficiaries, which he failed to do.

Beneficiaries state they did not know Mr. Enns was improperly charging trustee fees by including the Isamu Minami Probate Estate assets in the calculation of the total value of the assets, and state he is entitled to compensation as executor based on the schedule set forth in the California Probate Code. Beneficiaries did not know that Mr. Enns is required to obtain prior court approval before distributing any fees for his services as executor.

Exhibit 1 to Response is a copy of spreadsheets periodically given to Beneficiaries of his trustee fee calculations and disbursements. Mr. Enns combined the assets of the Estate of Isamu Minami and the Grace Minami Exemption Trust in computing his fees. The spreadsheets indicate that he paid himself \$120,500 from the Isamu Minami "Administrative Trust" and \$80,000 from the Grace Minami Exemption Trust.

From March 2009-March 2014, he included Isamu Minami's residence in Santa Maria with a value of \$750,000 in computing his trustee fees. This was clearly improper as Mr. Enns does not dispute that the residence is an asset of the probate estate. See I&A filed 3/26/10 attached as Exhibit 2.

Beneficiaries state Mr. Enns also improperly included Isamu Minami's 25% interest in the Home Ranch with a value of \$1,050,000 during the same period in computing his fees for services as trustee. This property is also an asset of Isamu's probate estate. See I&A filed 3/26/10. The Home Ranch sold in May 2013 and the Isamu Estate was issued at 1099-S for \$1,050,000 (Exhibit 3). The Escrow Final Closing Statement states the total sum of \$346,856.57 was disbursed to the Isamu Estate. At the hearing on 8/10/16 in the Isamu Estate, Mr. Enns' attorney Curtis Rindlisbacher stated to the court that he was going to amend the I&A to remove the Home Ranch as an asset of the estate.

SEE ADDITIONAL PAGES

26 In re the Testamentary Trusts under the Estate of Grace Masao Minami
Case No. 16CEPR00727

Page 5 – Beneficiaries state (Cont’d): In 2004, Isamu Minami executed a grat deed transferring his 25% interest from himself as a married man to himself as a widow. See Exhibit 4. Mr. Enns contends that Isamu Minami's interest in the Home Ranch was part of the Survivor's Trust; however, as part of the order, Isamu retained the right to distribute principal to himself, and clearly intended to transfer the Home Ranch out of the trust to himself, although he did not transfer the property as trustee of the survivor's trust. Beneficiaries state the transfer is legally valid notwithstanding the fact that Isamu executed the deed in his individual capacity. See authority.

Beneficiaries state Mr. Enns included Isamu's interest in the probate estate for over six years, but charged trustee fees based on the \$1,050,000 appraised value during the same time period. See Response for further discussion.

Beneficiaries state Mr. Enns also improperly included the Japan land with a value of \$80,000i in calculating trustee fees. This land is an asset of the Security Farms Partnership and the Isamu Minami Survivor's Trust and Grace Minami Exemption Trust have no ownership interest in the land. A claim was made against Isamu's estate in the probate proceeding by the trustees of the Yataro Minami Residual Trust. At his death, Isamu had a negative balance in his Security Farms Partnership Capital Account. The claim was subsequently settled for \$350,000 which was paid from the proceeds of the Home Ranch.

Beneficiaries state Mr. Enns also included monies in bank accounts titled in Isamu Minami's name on the date of death at Morgan Stanley, Rabobank, and Bank of America in computing fees, which accounts according to his spreadsheets had an aggregate date of death balance of \$55,234.00 as of 3/24/09. However, Mr. Enns provided statements in July 2016 statements to Beneficiaries showing an aggregate balance of \$93,743.59. Beneficiaries state these accounts are properly part of the probate estate and should not have been included in the trustee fee calculation. Beneficiaries are informed and believe that Mr. Enns never opened a bank account for the Isamu Minami probate estate.

Beneficiaries state Mr. Enns also improperly included the personal property of Isamu Minami valued at \$33,000 in computing his trustee fees, which personal property was also included in the I&A filed in the estate on 5/26/10.

Change in method of fee computation: Beneficiaries state Mr. Enns has always charged a percentage of the value of assets, and now seeks to unilaterally change the method of compensation to an hourly rate. Mr. Enns is not a professional fiduciary, yet requests compensation at \$185/hr. Beneficiaries state this rate is excessive for a non-professional fiduciary. Mr. Enns sent an email on 9/21/15 that his hourly rate is \$150/hr. The email discusses the basis for his claim of \$315,000. He now proposes to raise his hourly rate by \$35/hr which is questionable when he computed the \$315,000 based on a \$150/hr rate.

Beneficiaries states Mr. Enns estimates the time spent on various matters with vary broad and general descriptions and does not apportion or distinguish his services as trustee from his services as executor of Isamu's estate. The law requires Mr. Enns to show in detail the nature and extent of services rendered and time and effort expended beyond usual and ordinary services. See Response for authority and further detail.

SEE ADDITIONAL PAGES

26 In re the Testamentary Trusts under the Estate of Grace Masao Minami
Case No. 16CEPR00727

Page 6 – Beneficiaries state (Cont'd):

Commission received from sale of Home Ranch: Beneficiaries state Mr. Enns discloses in his petition that he received a commission of \$20,475 from Pearson Realty for the sale of the Home Ranch; however, he did not disclosed that he received this commission to the beneficiaries at the time of the sale, or at any time prior to the filing of this petition. Mr. Enns has a duty to administer the trust solely in the interest of the beneficiaries, and to not use or deal with trust property for his own profit. The commission should be included as compensation already received by Mr. Enns in computing his trustee fees.

Horton Ranch Option Agreement: Beneficiaries state the Isamu Estate owned 25% and the Grace Minami Exemption Trust owned 25% of the Home Ranch (sic). Mr. Enns was acting as both executor and trustee in providing these services and does not apportion the services between the trust and the estate. He does not show time and effort expended beyond usual and ordinary services. This Court has no jurisdiction to determine Mr. Enns right to compensation as executor of the Isamu estate.

Security Farms Capital Account Issues and Lawsuit Re Partnership Interests: Mr. Enns states he spent 355 hours providing services re these matters. Beneficiaries are informed and believe that at the time of his death, Isamu held his interest in the partnership as an individual and not as trustee of any trust. Mr. Enns was acting as executor of the estate in these services and it is not proper to charge trustee fees. As stated above, a claim was made against the estate, and subsequently settled for \$350,000 which was paid from the sale of the Home Ranch. This Court has no jurisdiction to determine Mr. Enns right to compensation as executor of the estate.

Sale of the Home Ranch: Beneficiaries contend that Isamu owned a 25% interest in the Home Ranch at his death, which is inventoried in the estate. The Grace Minami Exemption Trust owned a 25% interest in the Home Ranch. Mr. Enns states he spent 169 hours related to the sale, but does not apportion his time, or provide specifics. This Court has no jurisdiction to determine Mr. Enns right to compensation as executor of the estate.

Russell Street Warehouse and Beneficiary Challenge: Mr. Enns states he spent 108 hours on this matter; however, the property had been sold by Isamu prior to his death, and the buyer executed a Note and Deed of Trust for \$332,000 of the purchase price. The Note was payable to Isamu as trustee. The Note and Deed of Trust were included in the I&A filed in the probate estate. Kenneth and Stanley Minami filed a claim in the probate proceeding contending they were entitled to the balance owed on a secured note on the basis that the property was bequeathed to them in Isamu's will. The claim was litigated in the probate estate and Judge Staffel ultimately ruled that the claim had lapsed due to the sale prior to Isamu's death. Mr. Enns provided services as executor.

Beneficiaries are informed and believe that Mr. Enns intends to remove the secured note from the inventory of the estate. He included the balance owed under the note under the Isamu Minami Administrative Trust. He did not act as trustee in these services. This Court has no jurisdiction to determine Mr. Enns right to compensation as executor of the estate.

SEE ADDITIONAL PAGES

26 In re the Testamentary Trusts under the Estate of Grace Masao Minami
Case No. 16CEPR00727

Page 7 – Beneficiaries state (Cont'd):

Tax consequences of sale of Home Ranch: Beneficiaries state the sale in May 2013 resulted in \$143,096 of federal and \$27,025 of state capital gains taxes. Beneficiaries first discovered these taxes had been incurred in March 2015 when Mr. Enns provided his spreadsheets. Mr. Enns had a duty to exercise reasonable care and prudence in deciding whether to sell trust property, and a statutory duty to consider the expected tax consequences and discuss with Beneficiaries methods to mitigate the impact. See authority. Beneficiaries believe they could have potentially exchanged the property for another property held for investment, but were denied the opportunity to do so because Mr. Enns never discussed the projected taxes with them prior to completing the sale. According to the final escrow statement, the trust received \$672,937.86 and Isamu's estate received \$346,856.57. A trustee's compensation may be reduced or denied where the trustee acts negligently or in breach of trust. See authority.

Conclusion: Beneficiaries state the Court in the Isamu Minami probate proceeding continued the hearing to 11/9/16 to allow amended I&A and petition for final distribution to be filed. If the proposed amendment is determined to be legally proper, Beneficiaries believe Mr. Enns will be entitled to a statutory fee of \$18,660, which is improperly included in this request. This Court clearly has no jurisdiction over the amount of compensation to be paid for services as executor in the estate currently pending in Santa Barbara Superior Court.

The Beneficiaries contend that Mr. Enns' petition in this Court is premature given the status of the probate in Santa Barbara County and Mr. Enns' obvious commingling of trustee and probate assets in computing his fees. Beneficiaries further object to the petition for lack of sufficient proof as to the reasonable amount of compensation.

Beneficiaries pray for an order as follows:

- 1. Surcharging Petitioner for excessive fees previously paid to Petitioner, according to proof;**
- 2. Denying Petitioner's request for additional compensation; and**
- 3. For such other orders as the Court deems proper.**

SEE ADDITIONAL PAGES

26 In re the Testamentary Trusts under the Estate of Grace Masao Minami
Case No. 16CEPR00727

Page 8 – NEEDS/PROBLEMS/COMMENTS:

1. This trust and related matters have extensive history in Santa Barbara Superior Court and the related decedent's estate, of which Petitioner is the personal representative, is being probated there. Probate Code § 17005 provides that the proper county for commencing a testamentary trust proceeding is either the county where the decedent's estate is administered or principal place of administration. The Estate of Grace Minami was administered in Santa Barbara County, the Estate of Isamu Minami is currently being administered in Santa Barbara County, this trust was previously brought before the Santa Barbara County Superior Court for Petitioner's appointment, and it appears the real property of the trust is located in Santa Barbara County. Therefore, the Court may require clarification as to the appropriateness of Fresno County as appropriate venue for this compensation petition.
2. The Petition does not state the names and addresses of each personal entitled to notice of the petition as required by Probate Code § 17201. Examiner is unable to determine from the trust who the beneficiaries are, as the instrument only appears to refer to "issue" (see Section 2.5.3). Notice was served on Susan Jang of Piedmont, CA, Sam Minami of San Jose, CA, and attorneys Richard Weldon and Charles Goff, both of Santa Maria, CA. Given the complexity of this trust and related matters, it is impossible to confirm proper notice without a verified list.
3. Petitioner requests the Court approve the \$200,500 already paid plus additional compensation of \$114,846, totaling \$315,346, which amount includes statutory compensation of \$18,606 from the decedent's estate matter pending in Santa Barbara Superior Court. However, that matter has not yet concluded and that amount has not yet been ordered therein. Therefore, this Court cannot approve payment of that amount. Examiner calculates that the requested trustee's compensation of \$296,740, less the amount already paid \$200,500, totals \$96,240.
4. Petitioner includes 108 hours (\$19,980) in connection with legal proceedings initiated to resolve questions about a gift in Isamu Minami's will, which appears may be a matter more appropriately considered as extraordinary compensation within the Isamu Minami Estate of which Petitioner is the personal representative in Santa Barbara County rather than for this Court to consider as trust compensation under the Grace Minami trust and subtrusts. (See Line 26 on Page 8 re Russell Street Warehouse and Beneficiary Challenge.)
5. Need order. Local Rule 7.1.1.F.

Petitioner: Susan Horn (Pro per – Paternal grandmother)

Petition for Appointment of Temporary Guardian of the Person
(as to Alicia, Alexis and Cerryia only)

<u>GENERAL HEARING 10/13/2016</u>			NEEDS/PROBLEMS/COMMENTS:
<p>SUSAN HORN, paternal grandmother (of Alicia and Alexis), is petitioner.</p>			<p><u>OFF CALENDAR.</u> Amended petition filed 8/23/2016 and set for hearing on 9/6/2016.</p> <p>Petition is as to Alicia, Alexis and Cerryia only.</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of personal service with at least 5 court days notice of Notice of Hearing with copy of temporary petition <u>or</u> consents and waivers of notice <u>or</u> declarations of due diligence for: <ol style="list-style-type: none"> a. Jesse "Heilberto" Garcia (presumed father of Cerryia) – <i>unless the Court excuses notice</i>
See petition for details.			
Cont. from			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg	x	
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.	x	
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: SEF
			Reviewed on: 8/19/2016
			Updates: 8/24/2016
			Recommendation:
			File 27- Estrada

Petitioner Delfino Casy Ruiz, III, maternal uncle)
 Petitioner Erika Lisa Ruiz (Pro Per, maternal aunt)

Petition for Appointment of Temporary Guardian of the Person

			<u>General Hearing set for 10/12/2016</u>	NEEDS/PROBLEMS/COMMENTS:
			DELFINO C. RUIZ, III, and ERIKA L. RUIZ, maternal uncle and aunt, are Petitioner. ~Please see <i>Petition</i> for details~	
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
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	PTC			
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✓	Notice of Hrg			
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	Video Receipt			
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	Citation			
	FTB Notice			
			Reviewed by: LEG	
			Reviewed on: 8/19/16	
			Updates:	
			Recommendation:	
			File 28- Zaragoza	